



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: NOVEMBER 23, 2022

IN THE MATTER OF:

Appeal Board No. 625421

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination, ruling the claimant not entitled to receive benefits, effective February 7, 2022, on the basis that the claimant was unable to file a valid original claim pursuant to Labor Law § 527 because the claimant had insufficient earnings in covered basic and

alternate base period employment; and had insufficient earnings to meet the work requirements to requalify for a subsequent original claim filed effective February 2, 2022, pursuant to Labor Law § 527(6). The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant. By decision filed August 15, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a further hearing. The record was not sufficiently developed on the monetary determination as to whether the claimant could establish a valid original claim for unemployment insurance benefits, effective February 7, 2022, based upon earnings within her base period and/or alternate base period as well as whether the claimant had sufficient wages to re-qualify for unemployment insurance benefits. The Commissioner of Labor is directed to produce a witness with first-hand knowledge to testify as to the claimant's unemployment claim

filed, effective February 7, 2022.

At the further hearing, the parties will be confronted with the Claimant's Application for Benefits; the LO 999, Wage Summary by Quarter by Employer; and the Wage Reporting Information from the Department of Taxation and Finance, and asked to discuss the claimant's remuneration during the relevant basic base and alternate base period as to the amount of earnings, the source of such earnings and when such earnings were paid to the claimant. Any additional documentary evidence with respect to the relevant basic base period and alternate base period, including but not limited to paystubs, deposit slips and/or bank statements reflecting earnings from employment during that time period, shall be produced at hearing for entrance into the record.

The Judge shall then take any additional testimony and evidence necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER